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42300 Vol. m 78 Page 1675

BEFORE THE BOARD OF COUNTY COMMISSIONERS

In and For the County of Klamath, State of Oregon

IN THE MATTER OF APPEAL )
ON LaWANDA HILLS #2, ) O R D E R
TRACT NO. 1149 )

This Tract, being Tract 1149, named LaWanda Hills No. 2, came on for hearing before the Planning Commission, with public hearing having been heard on September 13, 1977, where from the testimony, reports and information produced at the hearing by the applicant, Planning Department Staff and other persons in attendance. The Planning Commission recommended approval of Tract 1149, being named LaWanda Hills, which is generally located west of the existing subdivision LaWanda Hills and approximately 400 feet north of Highway 140 and more particularly described as Township 39S, Range 8, Section 14 and 23.

The Planning Commission made the following Findings for approval:

1. Gearhart Street must have the street plug removed by the County before plat recordation.

2. Require a variance on length to width ratio on Lot 8, Block 1.

3. Must show location of drainage easements on final plat.

4. The proposed subdivision lies within the urban area as defined in Section 2.50 of the Subdivision Ordinance. Therefore, streets that are 60' must be dedicated, named, and constructed by the subdivider to County Standard No. 113 (32' wide and

gravelled).

5. Recommend approval of the use of individual wells and septic tanks. (See Section 8.05 E and F).

6. Extend street to north end of property and install a street plug.

7. Install cul-de-sac at the southerly end of the street on Lot 8 and redesign lot line to intersect radial point.

8. Applicant bring Lots 1 and 2 within the Keno Rural Fire Protection District.

Pursuant to Section 11:30, page 41, of the Klamath County Subdivision Ordinance, the Area Committee of Stewart Lennox filed a letter of appeal for a hearing to the Klamath County Board of Commissioners. A public hearing was regularly held on November 29, 1977. The appeal was based on the following grounds:

1. Approval of the subdivision plat is in violation of our area planning goals which provide for open space, and protection of our scenic amenities. Our goals also include planned growth at a gradual rate in order to control the demand for public services. We are specifically concerned with subsurface sewer systems, water quality and drainage.

2. Traffic hazard exist on Highway 66 for access to LaWanda Hills which were not adequately addressed by the Planning Commission.

3. There was no input on the tract by Oregon State Fish and Wildlife personnel. A telephone call to Mr. Ralph Opp informed us that change of personnel had prevented information being submitted, and they would provide this if another hearing is held.

4. Our Area Committee is under the impression that sub-

divisions come under the Fasano decision as clarified by the June 6, 1977, Oregon Court of Appeals opinion, Bienz v. City of Dayton. We do not feel that "need" was adequately addressed by either applicant or the Planning Commission.

5. We were not notified of the subdivision review committee meeting on this tract and therefore were unable to provide information of the conflict existing between the Department of Environmental Quality and the Soil Conservation Service soil suitability rating for the area is "SEVERE" for septic tanks and drain fields. Because of the steep terrain, and the Soil Conservation Service rating, we are concerned about protection of domestic wells and our water quality. 100% of the residents of the area are directly affected by the subdivision have signed a petition in opposition to the tract because of this concern. Copies of the petition circulated are attached (See attached petition).

On November 29, 1977, the Board of County Commissioners from reviewing all pertinent evidence and testimony, reports and inforamtion produced by the applicant, the Planning Commission, Planning Department and interested property owners in the area, the Board of Commissioners makes the following findings of fact:

1. We as the Board of County Commissioners sympathize with desire for wide open spaces, but government nor do opponents own the land. If they wish to preserve open space and deer range, it should be purchased from owner and dedicated to park.

2. We as the Board of County Commissioners find that proposed subdivision is in Keno Fire District.

3. We as the Board of County Commissioners find that the proposed subdivision has good access, some congestion at Highway

66, but not overly obstructed.

4. We as the Board of County Commissioners find that the drainage problem was addressed in Planning Commission points, that being Planning Commission finding No. 3: Must show location of drainage easements on final plat.

5. We as the Board of County Commissioners find that septic tank problems under point No. 5 of Planning Commission findings stated: Recommend approval of the use of individual wells and septic tanks.

6. We as the Board of County Commissioners find the question of further dividing for the proposed subdivisions was not addressed.

7. We as the Board of County Commissioners find that need established LaWanda Hills #1 apparently has been all sold. The proposed subdivision is composed of 8 - 20 acre parcels and this would still preserve some open space and accommodate some wildlife habitats.

NOW, THEREFORE, IT IS HEREBY ORDERED that Tract 1149, LaWanda Hills #2, to be subdivided from 1 - lot of approximately 165 acres to 8 - lots with a minimum parcel size being 20 acres in size and generally located approximately to the west of the existing LaWanda Hills Subdivision and approximately 400 feet north of Highway 140 and more particularly described as Township 39S, Range 8, Section 14 and 23 of Klamath County, Oregon is hereby approved.

DONE AND DATED THIS 26th day of January, 1978.

Nell Kuonen
Chairman

Floyd L. Wynne
Floyd Wynne
Commissioner

Lloyd Gift
Lloyd Gift
Chairman

APPROVED AS TO FORM

By: Boivin, Boivin & Aspell
County Legal Counsel

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County

this 27th day of January A. D. 19 78 at 2:16 o'clock P M., and duly recorded in Vol. M78, of Deeds on Page 1675

Wm D. MILNE, County Clerk

By: Bernetha N. Leach

Deed to Evelyn Buhn

Fee None